

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
October 3, 2003

CHARTER SCHOOL FACILITY PROGRAM
REGULATION AMENDMENTS

BACKGROUND

The Charter School Facility Program, created through Assembly Bill (AB) 14 allowed for the allocation of \$100 million to provide facilities to charter schools. On July 2, 2003 the State Allocation Board (SAB) made the first preliminary apportionments for the program to six charter schools. After the first allocation, the SAB and the California School Finance Authority (CSFA) presented a joint report to the Legislature detailing the implementation of the program, description of the projects funded, and recommendations for statutory change. Senate Bill (SB) 15 (Alpert) contains some of the recommendations as well as other changes to the program.

The attached chart and regulations are reflective of the statutory changes in SB 15, regulation changes as a result of public comment and administrative changes needed for program management.

Attachment A

This chart is a summary of the regulations that have been changed as a result of the Joint Report, public comments and new legislation. The points of discussion are broken up by regulation section, current practice, proposed changes and justification for the changes.

Attachment B

Proposed regulation text based on SB 15, the Joint Report and public comment.

Attachment C

Senate Bill 15 requires the SAB in conjunction with CSFA to establish per project caps to maximize the number of projects that may be given a preliminary apportionment. This item is a discussion paper to begin the discussion on establishing these per project costs. Attachment C1, 2 and 3 are project cost cap samples based on per pupil grants. These samples are based on an applicant receiving all the possible additional grants on top of the base grant for the project.

Attachment A
Summary of Revised Charter School Facility Program Regulations
SAB Implementation Committee, October 3, 2003

Section	Current Practice	Proposed Change	Justification for Change
DEFINITIONS "CHARTER SCHOOL GENERAL LOCATION" Reg Section 1859.2	In determining a median cost for site acquisition, the general location was based on the Critically Overcrowded Schools (COS) Program using source schools.	Create new definition "Charter School General Location" to mean a three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.	The Charter School program differs from the COS that it does not use source schools. This definition will define the area to be used for the median cost calculation and provide a more accurate assessment of the real estate transactions in and around the proposed general location.
DEFINITIONS "FINANCIALLY SOUND" Reg Section 1859.2	n/a	Add reference to California School Finance Authority (CSFA) regulations.	Clarification language to properly reference both sets of regulations.
DEFINITIONS "LARGE CHARTER SCHOOL" Reg Section 1859.2	A school in which enrollment is greater than 351.	A school in which the enrollment is greater than 501.	Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance.
DEFINITIONS "MEDIUM CHARTER SCHOOL" Reg Section 1859.2	A school in which enrollment is between 101 to 350.	A school in which enrollment is between 251-500.	Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance.
DEFINITIONS "REGION 2" Reg Section 1859.2	Tulare county is in Region 3.	Move Tulare county into Region 2.	Tulare was inadvertently left in Region 3 when the distribution was originally done and demographically should have been placed in Region 2 from the onset of the program.
DEFINITIONS "SMALL CHARTER SCHOOL" Reg Section 1859.2	A school in which enrollment is not more than 100.	A school in which enrollment is not more than 250.	Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance.
ADJUSTMENTS TO THE NEW CONSTRUCTION BASELINE ELIGIBILITY Reg Section 1859.51(e)	There is currently no requirement for school district's to update their enrollment when a Preliminary Charter School Application is submitted by a charter school directly.	Require school district's to update their enrollment by completing a new 50-01 within 30 calendar days of receipt of the Preliminary Charter School Application.	As required by legislation – SB 15
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA Reg Section 1859.162	n/a	New legislation requires that prior to the end of the filing period that the applicant must have a charter approved or a material revision to their existing charter approved for that specific school in which they are applying. We have taken it one step further and stated that prior to the submission of the Preliminary Charter School Application that the above must be in place. This will be incorporated into the Preliminary Charter School Application form and the applicant will be required to report the date of the charter approval or of the material revision.	As required by legislation – SB 15

Section	Current Practice	Proposed Change	Justification for Change
PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION Reg Section 1859.163.1	The preliminary apportionment calculation originally referenced the calculation used in the critically overcrowded program.	The preliminary apportionment calculation has been incorporated into the charter school section of the regulations.	Clarification and ability to modify certain areas of the calculations, which are specific to the charter school program.
PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION "SMALL SIZE PROJECT" Reg Section 1859.163.1 (e)	This allowance is called the Small New School Allowance and is provided if the project meets the requirements of Section 1859.83(c).	Change to allow the charter school to request a small size project, which is a project that will house no more than 200 pupils, as provided in 1859.83(b).	The basis for this change is because the New School Allowance was intended for projects that were going to be built in phases, but needed funding to provide the core facilities up front. When subsequent applications come in to add classrooms, the grant is offset. Due to the nature of the charter school program we don't envision this happening and feel that the small size project is more applicable.
PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION "USEABLE ACRES" Reg Section 1859.163.1(f)(2)	In the last round, useable acreage was determined by using CDE recommended site size as established for the COS program.	Per the new legislation, CDE has provided new numbers which are exactly half of what is used in the COS program in order to limit the amount of acreage for which each applicant can apply.	As required by legislation – SB15
PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION Reg Section 1859.163.1	The Preliminary Charter School Application currently includes a certification for the Labor Compliance Program.	Regulation language has been included to incorporate the Labor Compliance Program grants.	At the July 2, 2003 State Allocation Board meeting the grants for the LCP were approved and we have incorporated the regulation language to include this reference.
PRELIMINARY CHARTER SCHOOL APPORTIONMENT SITE ACQUISITION VALUE Reg Section 1859.163.2 (3)(b)	Costs for hazardous material clean up are automatically calculated in the site acquisition costs and are provided at 150% of the appraisal or median cost.	Edits will be made to the form to allow the applicant to include a lesser amount for toxic remediation.	Cases may exist where an applicant knows that they will not need the 150% amount for clean up.
CALCULATION OF PREFERENCE POINTS Reg Section 1859.164.1 (a) and (b)	n/a	We have adjusted the low-income scales and the overcrowded scales to add more ranges.	This adjustment was done to allow for more variance and to avoid having projects end up with the same preference points.
PRELIMINARY CHARTER SCHOOL APPORTIONMENT FUND RELEASE Reg Section 1859.164.2	n/a	Regulations have been written to allow for advanced release of funds for separate design equal to 40 percent of the total project cost and/or an advance fund release for site acquisition.	As required in legislation – SB 15

Section	Current Practice	Proposed Change	Justification for Change
FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167	n/a	Incorporate the language for the unrestricted Fund to include the 2004 Charter School Facilities Account.	As required by legislation – SB 15
FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167	n/a	Any funds deposited back into the Unrestricted Fund in the 2002 Charter School Facilities Account or for Preliminary Charter School Applications received from February 2003 to April 1, 2003 which were not funded due to insufficient funds shall be used by the Board for other Charter School facility projects.	Per SAB Action on July 2, 2003 and SB 15.
FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167	n/a	Any funds deposited back into the Unrestricted Fund in the 2004 Charter School Facilities Account shall be used by the Board for other Charter School facility projects.	As required by legislation – SB 15

ATTACHMENT B

PROPOSED AMENDMENTS TO THE
CHARTER SCHOOL FACILITY PROGRAM
SB 15 AND OTHER REGULATORY AMENDMENTS

Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the act:

...
“Authority” shall have the meaning set forth in Education Code Section 17078.52(c)(1).

...
“Charter School” shall mean a school established pursuant to Education Code, Title 2, Division 4, Part 26.8, Section 47600, et seq.

...
“Charter School General Location” shall mean a three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.

...
“Classroom-Based Instruction” shall have the meaning set forth in Education Code Section 47612.5(e)(1).

...
“Final Charter School Apportionment” shall mean a Preliminary Charter School Apportionment that has been converted to a Final Charter School Apportionment in accordance with Section 1859.165.

...
“Financially Sound” shall have the meaning set forth in Education Code Section 17078.52(e)-(d)(4) and Title 4, California Business Regulations commencing with Section 10151.

...
“Form SAB 50-09” means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (New 01/03), which is incorporated by reference.

...
“Large Charter School” shall be defined as a school in which the enrollment is greater than ~~354~~ 501 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

...
“Low-income” shall be those charter schools in which a percentage of the pupils receive free or reduced meals according to the CDE.

...
“Medium Charter School” shall be defined as a school with an enrollment of ~~404~~ 251 pupils to 500 ~~350~~ pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

...
“Non-profit entity” means an entity that is organized and operated for purposes of not making a profit under the provisions of the federal Internal Revenue Code Section 501(c)(3), or is organized as/operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, Section 5110, et seq.

...
“Overcrowded School District” for purposes of determining preference points is any district that demonstrates eligibility in excess of two percent of their unhoused pupils.

...
“Preliminary Charter School Application” means a district filing on behalf of a charter school or the charter school submitting directly on Form SAB 50-09, including all supporting documents as identified in the General Instructions Section of that Form submitted to the OPSC and the OPSC has accepted the application for processing.
“Preliminary Charter School Apportionment” means an apportionment made pursuant to Education Code Section 17078.52(c)(3).

....
“Region One” shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.

“Region Two” shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.

“Region Three” shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, Tulare, and Ventura.

“Region Four” shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.

...
“Rural Area” shall be a school with a locale code of six, seven or eight as classified by the National Center for Education Statistics (NCES).

...
“Small Charter School” shall be defined as a school with an enrollment of not more than ~~400~~ 250 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

...
“Suburban Area” shall be a school with a locale code of either two, three, four, or five as classified by the NCES.

...
“Urban Area” shall be as a school with a locale code of one as classified by the NCES.

...
Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code. Section 53311, Government Code and Section 1771.5, Labor Code.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.160.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
- (c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
- (d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.
- (e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below. If a Preliminary Charter School Application is submitted by a Charter School after the initial baseline eligibility was approved by the Board for the district in which the Charter School is physically located and the district's current CBEDS enrollment reporting year is later than the enrollment reporting year used to determine the district's baseline or adjusted eligibility, the district must complete a new Form SAB 50-01 based on the current year CBEDS enrollment data, and submit it to the OPSC within 30 calendar days of receipt of the Preliminary Charter School Application.
- (f) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that affect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
 - (1) That is a trailer and transportable/towed on its own wheels and axles.
 - (2) Of less than 700 interior square feet.
 - (3) Excluded pursuant to Education Code Section 17071.30.
 - (4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
 - (5) Where the contract for the lease, lease-purchase, purchase, or construction was made no more than 180 days before the Approved Application date for funding of the classrooms included in the contract.
 - (6) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
 - (7) That was acquired with joint-use funds specifically available for that purpose.
- (j) For small school districts, decreased:
 - (1) By any reduction in projected enrollment beginning in the enrollment-reporting year that follows a three year period beginning when the district's baseline eligibility was determined by the Board. The reduction shall be determined by any decrease between the current projected enrollment and the projected enrollment used when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.

- (2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's baseline eligibility was determined by the Board pursuant to Section 1859.50. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.
- (k) Adjusted for any change in classroom inventory as a result of a reorganization election.
- (l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

Article 14. Charter School Facilities Program

Section 1859.160. General.

A Charter School seeking a Preliminary Charter School Apportionment pursuant to the provisions of Education Code Sections 17078.50 through 17078.64 for new construction shall complete and file a Form SAB 50-09.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.161. Preliminary Charter School Application Submittals.

A Charter School seeking a Preliminary Charter School Apportionment shall complete and submit Form SAB 50-09 between February 2003 and March 31, 2003, or between 60 calendar days prior to and 120 calendar days after the 2004 election authorizing additional funding.

The Board may establish additional application filing periods as needed.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.53, Education Code.

Section 1859.162. Preliminary Apportionment Eligibility Criteria.

A Charter School may apply for a Preliminary Charter School Apportionment by submittal of Form

SAB 50-09 if ~~all of the following conditions are met: the district in which the Charter School is physically located has SFP new construction eligibility pursuant to Education Code Section 17071.75 and Section 1859.50 at the grade level of project being proposed in the Charter School application.~~

- (a) the district in which the Charter School is physically located has SFP new construction eligibility pursuant to Education Code Section 17071.75 and Section 1859.50 at the grade level(s) being proposed in the Preliminary Charter School Application; and,
- (b) prior to submission of the Preliminary Charter School Application the requirements of EC Section 17078.53(d) are met.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17071.75, 17078.52 and 17078.53, Education Code.

Section 1859.162.1. Overlapping District Boundaries.

If the Charter School provides or will provide instruction for a combination of grade levels and therefore is or will be located in more than one school district's boundaries (e.g. elementary and high school district, not unified), a separate Form SAB 50-09 requesting pupil grant eligibility from each district, as appropriate will be required. For the purposes of receiving a Preliminary Charter School Apportionment pursuant to Section 1859.163, the applications will be combined into one to be funded concurrently.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.53 and 17078.54, Education Code.

Section 1859.163. Approval of Applications for Preliminary Charter School Apportionments.

Prior to approving a Preliminary Charter School Apportionment, the Board will require a certification from the Authority that the Charter School is Financially Sound. ~~The calculation of the Preliminary Charter School Apportionment shall be determined using the criteria established in Section 1859.145 and 1859.145.1.~~ In providing a Preliminary Charter School Apportionment, the Board shall use the funding criteria established in Section 1859.164. The apportionment provided by the Board may be 100 percent of the total project cost dependent upon the method of Charter School's contribution as determined by the Authority.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.163.1. Preliminary Charter School Apportionment Determination.

The Preliminary Charter School Apportionment shall be equal to the sum of the following:

- (a) The amounts shown below for each pupil included in a Preliminary Charter School Application:

- (1) \$5,226.82 for each elementary school pupil.
- (2) \$5,533.65 for each middle school pupil.
- (3) \$7,225.94 for each high school pupil.
- (4) \$16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
- (5) \$11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
- (c) An amount equal to one-half of the site acquisition value determined in Section 1859.163.2.
- (d) An amount for site development cost determined, at the option of the district, by one of the following:
 - (1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
 - (2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.
 - (3) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-09.
- (e) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to 1859.83(b)(1) or (b)(2), as appropriate.
- (f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
 - (1) The district has requested an increase for multilevel construction pursuant to (b) above.
 - (2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined multiplying the sum of the pupil grants requested on Form SAB 50-09, and the current CBEDS enrollment on the site (if applicable) by .008875 for elementary school pupils, .0105 for middle school pupils and .01236 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-09, as appropriate, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-09.
- (3) The value of the property as determined in Section 1859.163.2(a) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
- (g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (h) An amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Charter School Applications received no later than March 31, 2003. An amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Charter School Applications received no later than 120 calendar day after the 2004 election authorizing the funding for the program.

The amounts shown in (a) shall be adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17075.10, 17078.10 and 17078.24, Education Code.

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

If the Preliminary Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:

- (a) The value of the property determined by one of the following:
 - (1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.
 - (2) The Median Cost of an acre of land in the Charter School General Location using historical information in the Charter School General Location multiplied by the number of proposed useable acres requested on Form SAB 50-09. Historical information that may be considered to determine land cost shall include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Charter School Application was submitted to the OPSC.
- (b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:
 - (1) 21 percent of the value determined in (a).
 - (2) The sum of the following:
 - (A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.
 - (B) The DTSC cost for review, approval, and oversight of the POSEA and the PEA for the specific site to be acquired.
 - (3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the Charter School General Location.
- (c) Four percent of the amount determined in (a), but not less than \$50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.
- (d) For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(1) or (a)(2), above.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17072.13, 17078.10 and 17078.24, Education Code.

Section 1859.164. Application Funding Criteria.

If the estimated total apportionments of all Financially Sound Preliminary Charter School Applications received in either filing period specified in Section 1859.161 exceed the funds available, the applications shall be identified in each of the following four categories:

- (a) Geographical Region One, Two, Three, or Four.
- (b) Urban, Rural, or Suburban areas.
- (c) Large, Medium, or Small Charter Schools.
- (d) K-6, 7-8, or 9-12 grade levels.

The Board shall first apportion one project of each possible type, a maximum of four in category (a) and a maximum of three in categories (b) through (d), starting with (a) and continuing through (d). If more than one application is received of the same type within a category, the Board will apportion based on which project has the highest preference points, calculated in Section 1859.164.1. If a project has the highest preference points but was previously apportioned, the project with the next highest preference points will be apportioned. The same process will continue for the remaining categories until the Board has apportioned a project within each type in categories (a) through (d), or until no funding remains. If after funding one project in each category (a) through (d), funding remains available, the process shall be repeated until no funding remains.

All Preliminary Charter School Applications received from an Charter School will be processed in the date order received by the OPSC. If more than one Preliminary Charter School Application is received on the same day from the same Charter School, those applications will be processed by the OPSC based on the priority order assigned to those applications by the Charter School on Form SAB 50-09.

If two or more Preliminary Charter School Applications have the same preference points, the Board shall first apportion that Preliminary Charter School Application that was received first by the OPSC. Any applications the SAB is unable to provide a Preliminary Charter School Apportionment to will be returned to the Charter School.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.56, Education Code.

Section 1859.164.1. Calculation of Preference Points.

Preference points will be calculated for all Preliminary Charter School Applications. An application shall receive preference points based on the total of (a), (b), and (c), up to a maximum of 100 points, as follows:

- (a) Low Income: Up to 40 points if a percentage of pupils at the Charter School receive free/reduced lunch. If the proposed project is to construct a new campus for a Financially Sound Charter School using proposed pupils, the determination for free/reduced lunch will be the higher of the percentage of pupils at the existing Charter School or the percentage for the district where the Charter School is physically located. Use the following sliding scale to determine the number of preference points:

Percentage Receiving Free/Reduced Lunch	Preference Points Assigned
5–15%	4
16–30%	8
31–39%	12
40–47%	16
48–55%	20
56–64%	24
65–73%	28
74–82%	32
83–91 <u>92%</u>	36
<u>92–100%</u> <u>93</u>	<u>40</u> <u>36.5</u>
<u>94</u>	<u>37</u>
<u>95</u>	<u>37.5</u>
<u>96</u>	<u>38</u>
<u>97</u>	<u>38.5</u>
<u>98</u>	<u>39</u>
<u>99</u>	<u>39.5</u>
<u>100</u>	<u>40</u>

- (b) Overcrowded School District: Up to 40 points if the school district where the Charter School is physically located is determined to be overcrowded by dividing the remaining New Construction Eligibility (prior to the reduction from this application) by the district's current enrollment (round up) and multiplying the product by 100. Use the following sliding scale to determine the number of preference points:

Percentage Overcrowded	Preference Points Assigned
<u>2–5%</u>	4
<u>6–9%</u>	8
<u>10–13%</u>	12
<u>14–17%</u>	16
<u>18–21%</u>	20
<u>22–27%</u>	24
<u>28–34 %</u>	<u>28</u>
<u>35–41%</u>	32
<u>42–50%</u>	36
<u>51% and above</u>	40

<u>Percentage Overcrowded</u>	<u>Preference Points Assigned</u>
<u>2-9%</u>	<u>4</u>
<u>10-13%</u>	<u>8</u>
<u>14-16%</u>	<u>12</u>
<u>17-19%</u>	<u>16</u>
<u>20-22%</u>	<u>20</u>
<u>23-25%</u>	<u>24</u>
<u>26-33 %</u>	<u>28</u>
<u>34-41%</u>	<u>32</u>
<u>42-49%</u>	<u>36</u>
<u>50% and above</u>	<u>40</u>

- (c) Non-Profit Entity: If the entity operating the Charter School meets the definition of a Non-Profit Entity, the project will receive 20 preference points.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.56, Education Code.

Section 1859.164.2 Preliminary Charter School Apportionment Fund Release.

A Charter School may request an advance release of funds from a Preliminary Charter School Apportionment for either of the following:

- (a) A separate advance release of funds for design equal to 40 percent of the amount determined in Section 1859.163.1(a).
- (b) A separate advance release of funds for site acquisition for an amount, not to exceed the Preliminary Charter School Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-09 pursuant to Section 1859.160.

Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial sound status from the Authority. The OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Charter School Preliminary Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the district may request a release of the remaining funds as prescribed in Section 1859.90.

Note: Authority cited: 17070.35 and 17078.64, Education Code

Reference: 17078.53, Education Code

Section 1859.165. Conversion of Preliminary Charter School Apportionment.

When a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, all the following criteria must be met:

- (a) The Final Charter School Apportionment request must meet all criteria on the Form SAB 50-04 for a New Construction Adjusted Grant pursuant to Section 1859.21.
- (b) A Charter School seeking to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment shall complete and file Form SAB 50-04, which cannot exceed more than 100 percent of the pupils the Charter School originally requested and received at the Preliminary Charter School Apportionment.

If the Charter School is unable to meet the criteria in this Section, the Preliminary Charter School Apportionment shall be rescinded pursuant to the provisions of Section 1859.166.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.52, Education Code.

Section 1859.166. Time Limit on Preliminary Charter School Apportionment.

- (a) A complete request to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment pursuant to Section 1859.165 shall be made within four years of the date of the Preliminary Charter School Apportionment unless the Charter School received approval of an extension pursuant to Section 1859.166.1.
- (b) If (a) is not met, the Preliminary Charter School Apportionment shall be rescinded and the SFP New Construction Eligibility will be increased for the pupils assigned to the Preliminary Charter School Application for the school district that physically contains the Charter School within its geographical boundaries.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.166.1. Preliminary Charter School Apportionment Time Limit Extension.

A Charter School that has received a Preliminary Charter School Apportionment may request a single one-year extension of the time limit prescribed in Section 1859.166(a). The Board shall approve the request provided the criteria in (a) or (b) are met:

- (a) The Charter School has provided evidence of both of the following:
 - (1) The CDE has made a contingent or final approval of the proposed site; and,
 - (2) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
- (b) Other evidence satisfactory to the Board justifying the extension.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.52, Education Code.

Section 1859.167. Final Charter School Apportionment.

The amount of the Final Charter School Apportionment will be based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Charter School Apportionment is submitted and accepted for processing by the OPSC. Prior to the Board providing a Final Charter School Apportionment, the

Charter School will need to have a current Financial Soundness certification from the Authority. The Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:

- (a) If the Final Charter School Apportionment request is equal to or less than the Preliminary Charter School Apportionment, the Final Charter School Apportionment shall be funded entirely. The difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment shall be transferred to the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.
- (b) If the Final Charter School Apportionment request is greater than the Preliminary Charter School Apportionment, the Board shall convert the Preliminary Charter School Apportionment to a Final Charter School Apportionment by either of the following:
 - (1) If the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account is greater than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment entirely. The Final Charter School Apportionment shall become the full and final apportionment for the project.
 - (2) If the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account is less than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment using any remaining balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

Any funds deposited into the Unrestricted Fund in the 2002 Charter School Facilities Account pursuant to ~~this Subsection (a)~~, and not used under (b)(1), ~~or (b)(2)~~, or for Preliminary Charter School Applications received from February 2003 to April 1, 2003 presented to the Board but were not funded due to insufficient funds, shall be used by the Board for other Charter School facility projects .

Any funds deposited into the Unrestricted Fund in the 2004 Charter School Facilities Account pursuant to Subsection (a), and not used under (b)(1) or (b)(2), shall be used by the Board for other Charter School facility projects.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.52, Education Code.

Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.

Once a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, the Charter School will be subject to the matching share requirements in Section 1859.77.1 and Education Code Section 17078.54(d) that may be paid through lease payments authorized by the Authority in lieu of the matching share. All lease payments shall be paid to the Board to be redeposited to the Charter School Facilities Unrestricted Account for purposes of this Article.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.54, Education Code.

Section 1859.169. Eligible Expenditures.

Expenditures made with the Final Charter School Apportionment must comply with Education Code Section 17072.35 and 17078.54(a). Expenditures for construction are eligible only if the construction contract was entered into on or after September 27, 2002.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, Education Code.

Section 1859.170. Additional Program Reporting Requirements.

A Charter School filing a Form SAB 50-09 on its own behalf pursuant to this Article shall comply with the reporting requirements of Sections 1859.100, 1859.101, 1859.102, and 1859.106.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.54, Education Code.

Section 1859.171. Use of Facility.

Once a Charter School is no longer occupying the facility constructed with funds derived through a Final Charter School Apportionment, the school district where the Charter School is physically located can either:

- (a) Elect to take possession of the facility and pay the balance of the local matching share. The District may qualify for a waiver of repayment if it can meet all the following:
 - (1) Demonstrate that at the time the Form SAB 50-04 was submitted for Final Charter School Apportionment, the district would have qualified for financial hardship, pursuant to Section 1859.81; and,
 - (2) Certify to the Board that it will comply with the requirements of Education Code Section 17078.62(b)(4)(B).
- (b) If the school district chooses not to take possession of the facility, it shall dispose of the facilities in the manner applicable to the disposal of surplus school sites pursuant to Education Code Sections 17455 through 17484. The proceeds from the sale shall be used to pay off the remaining loan balance, if any.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.62, Education Code.

ATTACHMENT C

SAB Implementation Committee, October 3, 2003
Charter School Facility Program
Regulation Changes

BACKGROUND

SB 15 requires the SAB to establish per project funding caps to maximize the number of projects that may be given a preliminary apportionment.

DISCUSSION

The law leaves it up to the SAB and CSFA to determine the per project funding caps on the total project cost, not just the State share. The following options discussed will propose that the caps be based on the grade level of the project. In some cases we realize that due to the nature of the charter schools, the traditional K-6, 7-8, and 9-12 caps may need to be adjusted and has been addressed in the proposal outlined below. The statute also required limitations to the amount of acreage that can be requested.

OPTIONS

There are several options to consider when determining a per project cap amount (total project cost). Any cap amount decided on **should not** include costs associated with site acquisition because the real estate climate over the State varies so much. A few options are as follows:

1. The calculation of the preliminary apportionment could consist of the base grant and site development costs and not allow the supplemental grants (small size project, geographic, multi-level, urban adjustment).

This option would disadvantage smaller projects requesting less pupil grants that are under the per project grade level cap. They would no longer be eligible to receive the benefits of requesting these grants.

2. Create different levels within each grade level cap. For example define a pupil range for small, medium, and large elementary schools and assign a cap at all three levels. This would also be done for middle and high school.

Again this option creates certain disadvantages based on the size of the project. Also, these numbers would be arbitrarily assigned because a data source on the size of charter schools by various grade levels is unavailable.

3. Assign a total project cap per grade level and allow for the supplemental grants to be given to the project provided that the cap is not exceeded.

This option would be the most straightforward method, which is important because charter schools often have not participated in State school facility programs and may not be aware of other requirements of the School Facility Program.

PROPOSAL – Recommend Option #3

Basic Rule:

The OPSC proposes the following total project funding caps, which are exclusive of site acquisition costs:

K-6: \$5 million
7-8: \$7 million
9-12: \$15 million

The above numbers were generated from Samples 1 and 2 (Attachment C1 and C2). Both samples represent all the grant amounts available to a project based on the pupils requested. It is important to note that a project may or may not be eligible for all the allowances. The pupil grants in Sample 1 (Attachment C1) are derived from general numbers of an elementary, middle, and high school. The pupil grants in Sample 2 (Attachment C2) are the average pupil requests at each grade level from the projects presented to the SAB on July 2nd (see Attachment C3).

Using data from both samples and history from prior projects focusing mainly on the base grant amount and site development, the caps were set at the above amounts.

Projects that contain multiple grade levels will receive the cap for the highest grade level served provided all grades within that group are being served. If all grades are not being served within that group, the cap for the project will be based where the majority of the pupils are being requested.

Previously Approved Projects:

Projects that received a preliminary apportionment from the SAB on July 2, 2003 would not be subject to the cap. However any projects outside of the six that receive a preliminary apportionment due to subsequent funding from the 2002 bonds will be required to adhere to the cap limits.

SB 15

CHARTER SCHOOL FACILITIES PROGRAM

TOTAL PROJECT COST CAP

ATTACHMENT C1

This sample uses general numbers of an elementary, middle, and high school charter.

	Type of Project		
Project Details	K-6	7-8	9-12
Pupil Grants	350	450	750
Classrooms	14	17	28
Acres*	3.1	4.75	9.25

Grant Calculations

Base Grant	\$2,054,500.00	\$2,796,300.00	\$6,087,000.00
Multi-Level Grant (12%)	\$246,540.00	\$335,556.00	\$730,440.00
Urban/Security (15% was used for this example as it is the lowest percentage allowed)	\$308,175.00	\$419,445.00	\$913,050.00
Site Development Costs (using \$70,000/acre)	\$217,000.00	\$332,500.00	\$647,500.00
Subtotal 1	\$2,826,215.00	\$3,883,801.00	\$8,377,990.00

Geographic Percent (5%)	\$141,310.75	\$194,190.05	\$418,899.50
Subtotal 2	\$2,967,525.75	\$4,077,991.05	\$8,796,889.50

12% Inflator Factor	\$356,103.09	\$489,358.93	\$1,055,626.74
Subtotal 3	\$3,323,628.84	\$4,567,349.98	\$9,852,516.24

Labor Compliance Program Grant	\$22,203.25	\$26,909.81	\$50,380.57
Total State Share	\$3,345,832.09	\$4,594,259.79	\$9,902,896.81
Total Project Cost	\$6,691,664.18	\$9,188,519.57	\$19,805,793.62

These calculations are based on the assumption that the charter school is eligible for all grants calculated above.

*The acreage amounts have been calculated using the new recommended site size.

SB 15
CHARTER SCHOOL FACILITIES PROGRAM
TOTAL PROJECT COST CAP
ATTACHMENT C2

This sample used the average of pupil grants requested as shown on Attachment C3.

Project Details	Type of Project		
	K-6	7-8	9-12
Pupil Grants	328	227	262
Classrooms	13	8	10
Acres*	2.91	2.38	3.24
Grant Calculations			
Base Grant	\$1,925,360.00	\$1,410,578.00	\$2,126,392.00
Multi-Level Grant (12%)	\$231,043.20	\$169,269.36	\$255,167.04
Urban/Security (15%) was used for this example as it is the lowest percentage allowed)	\$288,804.00	\$211,586.70	\$318,958.80
Site Development Costs (using \$70,000/acre)	\$203,770.00	\$166,600.00	\$226,800.00
Subtotal 1	\$2,648,977.20	\$1,958,034.06	\$2,927,317.84
Geographic Percent (5%)	\$132,448.86	\$97,901.70	\$146,365.89
Subtotal 2	\$2,781,426.06	\$2,055,935.76	\$3,073,683.73
12% Inflator Factor	\$333,771.13	\$246,712.29	\$368,842.05
Subtotal 3	\$3,115,197.19	\$2,302,648.05	\$3,442,525.78
	\$6,230,394.37	\$4,605,296.11	\$6,885,051.56
	\$43,114.22	\$37,936.95	\$45,143.66
Labor Compliance Program Grant	\$21,557.11	\$18,968.47	\$22,571.83
Total State Share	\$3,136,754.30	\$2,321,616.53	\$3,465,097.61
Total Project Cost	\$6,273,508.60	\$4,643,233.06	\$6,930,195.22

These calculations are based on the assumption that the charter school is eligible for all grants calculated above.

*The acreage amounts have been calculated using the new recommended site size.

Attachment C3

State Allocation Board Meeting, July 2, 2003
Charter School Facility Preliminary Apportionments

Application Number	District	County	Charter School	50-09 Received Date	Total Preference Points	Region	Funding Order	Urban, Rural, Suburban	Funding Order	Large, Medium, Small	Funding Order	Grade Level	Funding Order	Grants Requested			Grants Based on Project Type			Estimated State Share (including Lease Payment Amt)	Total Project Cost
														K-6	7-8	9-12	K-6	7-8	9-12		
54/68676-00-001	STOCKTON UNIFIED	SAN JOAQUIN	STOCKTON CHARTER	4/1/2003	68	1	1	Suburban		Medium		K-6		352			352			20,811,386.00	20,811,386.00
54/61259-13-001	OAKLAND UNIFIED	ALAMEDA	OAKLAND CHARTER	4/1/2003	64	2	2	Urban		Medium		9-12			275	425			700	17,367,918.00	17,367,918.00
54/64352-00-001	CENTINELA VALLEY UNION HIGH	LOS ANGELES	ANIMO LEADERSHIP HIGH	4/1/2003	96	3	3	Suburban		Large		9-12				310			310	10,023,014.00	10,023,014.00
54/66670-00-001	SANTA ANA UNIFIED	ORANGE	ORANGE COUNTY HIGH SCHOOL OF TH	4/1/2003	44	4	4	Urban		Large		7-8			567	267		834		28,634,364.00	28,634,364.00
54/64733-00-002	LOS ANGELES UNIFIED	LOS ANGELES	MONTAGUE STREET ELEM.	4/1/2003	76	3		Urban	5	Large		K-6		400			400			17,568,380.00	17,568,380.00
54/72769-00-001	WHEATLAND UNION HIGH	YUBA	ACADEMY FOR CAREER EDUCATION	4/1/2003	40	1		Rural	6	Small		9-12				55			55	2,629,094.00	2,629,094.00
54/67686-00-001	COLTON JOINT UNIFIED	SAN BERNARDIN	LAS BANDERAS ACADEMY CHARTER	4/1/2003	76	3		Suburban	7	Medium		9-12			116	234			350	15,405,596.00	15,405,596.00
54/64733-00-004	LOS ANGELES UNIFIED	LOS ANGELES	CAMINO NUEVO CHARTER ACADEMY - C	4/1/2003	76	3		Urban		Large	8	K-6		350	162		512			25,401,652.00	25,401,652.00
54/64733-00-003	LOS ANGELES UNIFIED	LOS ANGELES	WATTS LEARNING CENTER (CHARTER)	4/1/2003	76	3		Urban		Medium	9	K-6		450			450			16,131,058.00	16,131,058.00
54/10215-00-001	MARIN COUNTY OFFICE OF ED	MARIN	PHOENIX ACADEMY	4/1/2003	48	1		Suburban		Small	10	9-12				55			55	4,056,124.00	4,056,124.00
54/64733-00-006	LOS ANGELES UNIFIED	LOS ANGELES	ACCELERATED CHARTER ELEMENTARY	4/1/2003	64	3		Urban		Medium		K-6	11	375			375			18,378,976.00	18,378,976.00
54/64634-00-001	INGLEWOOD UNIFIED	LOS ANGELES	ANIMO INGLEWOOD CHARTER HIGH	4/1/2003	72	3		Suburban		Medium		9-12	12			312			312	10,070,350.00	10,070,350.00
54/75283-00-001	NATOMAS UNIFIED	SACRAMENTO	NATOMAS CHARTER #19	4/1/2003	64	1	13	Urban		Large		9-12				255			255	5,192,164.00	5,192,164.00
54/69062-00-001	SEQUOIA UNION HIGH	SAN MATEO	SEQUOIA CHARTER	4/1/2003	44	2	14	Suburban		Medium		9-12				320			320	67,127,824.00	67,127,824.00
54/64733-00-001	LOS ANGELES UNIFIED	LOS ANGELES	VAUGHN HIGH SCHOOL TEACHING ACA	3/19/2003	56	3	15	Urban		Large		9-12				500			500	15,850,858.00	24,850,858.00
54/68585-00-001	LODI UNIFIED	SAN JOAQUIN	LODI CHARTER	4/1/2003	56	1		Suburban	16	Medium		K-6		352			352			7,699,420.00	7,699,420.00
54/67314-00-001	ELK GROVE UNIFIED	SACRAMENTO	ELK GROVE CHARTER	4/1/2003	48	1		Suburban		Medium	17	9-12		20	15	145			180	3,782,084.00	3,782,084.00
AVG=														328	227	262	407	834	304	286,130,262.00	295,130,262.00